

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ASSOCIATION OF IRRITATED
RESIDENTS, an unincorporated association,

Plaintiff,

V.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, et al.,

Defendants.

Case No. 09-cv-01890 CW

STIPULATION TO AMEND CONSENT DECREE DEADLINE

AND

ORDER THEREON

1 WHEREAS, Plaintiff's complaint in this matter alleges that Defendants United States
2 Environmental Protection Agency et al. (collectively, "EPA") failed to act within the time lines
3 set forth in section 110(k)(2) of the Clean Air Act ("CAA"), 42 U.S.C. § 7410(k)(2), on the
4 following two state implementation plan revisions ("SIP revisions") adopted by the San Joaquin
5 Valley Unified Air Pollution Control District ("District") on September 21, 2006 and submitted
6 by the California Air Resources Board ("CARB") to EPA for review on December 29, 2006: (1)
7 Rule 2020, which provides for exemptions from District permitting requirements, including
8 those enumerated in Rule 2201; and (2) Rule 2201, which is a permitting rule that regulates
9 pollutants including NO_x and VOC emissions by requiring new sources in the District to use
10 Best Available Control Technology and to purchase emission reduction credits;

11 WHEREAS, CARB's December 29, 2006 SIP submittal to EPA includes Rule 2020 in its
12 entirety and as amended by the District on September 21, 2006, and only one revised paragraph
13 of Rule 2201 (Paragraph 4.6.9) as amended by the District on September 21, 2006;

14 WHEREAS, on behalf of the District, on March 7, 2008, CARB submitted to EPA for
15 review under section 110(k) of the CAA an amended Rule 2020 that carries forward the
16 amendment to Rule 2020 as submitted on December 29, 2006 and also includes other, more
17 recently adopted, amendments;

18 WHEREAS, on behalf of the District, on March 17, 2009, CARB submitted to EPA for
19 review under section 110(k) of the CAA an amended Rule 2201 as a whole, including Paragraph
20 4.6.9 as submitted on December 29, 2006, and also including more recently adopted
21 amendments;

22 WHEREAS, the Consent Decree entered by this Court on December 30, 2009, Dkt. 20,
23 requires EPA to sign for publication in the Federal Register a notice of the Agency's final action
24 on Rule 2020 and Paragraph 4.6.9 of Rule 2201 by March 15, 2010, pursuant to section 110(k)
25 of the CAA;

26 WHEREAS, the Consent Decree also provides that EPA's final action on the March 2008
27 and March 2009 submissions of Rules 2020 and 2201, respectively, shall discharge the
28 aforementioned final action obligation so long as such EPA final action includes action on the

substantive amendments to Rules 2020 and 2201 submitted on December 29, 2006;

WHEREAS, on January 29, 2010, EPA published a proposed rule, 75 Fed. Reg. 4,745 (Jan. 29, 2010), in which EPA proposed a limited approval and limited disapproval action on Rule 2020, as submitted on March 7, 2008, and on Rule 2201, as submitted on March 17, 2009;

WHEREAS, the public comment period for the proposed rule closed on March 1, 2010;

WHEREAS, in light of the public comments received in response to EPA's proposed rule, the parties have stipulated to amend the Consent Decree to allow EPA additional time to take final action on Rules 2020 and 2201;

WHEREAS, the EPA Regional Administrator has committed to meeting with Plaintiff before April 12, 2010 to discuss the proposed rule;

WHEREAS, Paragraph 4 of the Consent Decree authorizes the parties to extend this final action deadline via written stipulation;

NOW THEREFORE, the parties, by and through their undersigned counsel, hereby stipulate to amend Paragraph 1 of the Consent Decree by replacing it with the following:

1. EPA shall sign for publication in the Federal Register no later than April 12, 2010 a notice of the Agency's final action on Rule 2020 and the portion of Rule 2201 (i.e., Paragraph 4.6.9) submitted to EPA for review on December 29, 2006, pursuant to section 110(k) of the CAA. Once signed, EPA shall deliver the notice to the Office of the Federal Register for publication.

FOR THE DEFENDANTS:

IGNACIA S. MORENO
Assistant Attorney General
Environment & Natural Resources Division

Dated: March 12, 2010

/s/ Rochelle L. Russell
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1 FOR THE PLAINTIFFS:

2 Dated: March 12, 2010

/s/ Alegría De La Cruz (with permission)
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10 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

11 Dated: 3/22/2010


CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE